

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

DAVID B. DECKARD)

PLAINTIFF)

VS.)

CASE NO. 4:12-CV-452JMM

BOARD OF THE LITTLE ROCK SCHOOL)
DISTRICT, a public body corporate; MORRIS)
HOLMES, SUPERINTENDANT OF THE LITTLE)
ROCK SCHOOL DISTRICT IN HIS OFFICIAL)
CAPACITY; WAYNE ADAMS, DIRECTOR,)
LRSD MAINTENANCE AND OPERATIONS, IN)
HIS INDIVIDUAL AND OFFICIAL CAPACITIES ;)
DAVID HARTZ, ASSOCIATE)
SUPERINTENDENT, HUMAN RESOURCES, IN)
HIS OFFICIAL CAPACITY; ROBERT JONES,)
DIRECTOR OF SECURITY FOR THE LRSD IN)
HIS OFFICIAL AND INDIVIDUAL CAPACITY;)
JAMES PRICE, ACTING ELECTRICAL)
FOREMEN, LRSD, IN HIS INDIVIDUAL)
CAPACITY)

JUDGE JAMES M. MOODY

MAGISTRATE BETH DEERE

JURY TRIAL DEMANDED

DEFENDANTS

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Comes now David B. Deckard by and through his attorney Bridgette M. Frazier
for his Response to Defendants' Motion for Summary Judgment and states
below:

1. Defendants seek summary judgment on each claim brought forth by the Plaintiff, Mr. Deckard.
2. However, summary judgments should be sparingly used and then only in those rare instances where there is no dispute of fact and where there

exists only one conclusion. All the evidence must point one way and be susceptible of no reasonable inferences sustaining the position of the nonmoving party.'" *Davis v. Fleming Companies, Inc.*, 55 F.3d 1369, 1371 (8th Cir.1995)

3. Because there are sufficient facts to fully support some of Mr. Deckard's claims as well as disputes of material facts which go to each of Mr. Deckard's claims, the Defendants' Motion must be dismissed in its entirety.
4. In support of his position, Plaintiff submits an accompanying brief.
5. Mr. Deckard is not required to prove in his favor an issue of material fact – all that is required is that he points to sufficient evidence that an issue of material fact exists. See *Hase v. Missouri Div. of Employment Security*, 972 F. 2d 893 (8th Cir., 1992). To this end, Mr. Deckard also submits the following Exhibits in support of this Motion and his Brief:
 1. Exhibit A - Deposition of David Deckard, Vol. I &II as excerpted
 2. Exhibit B - Deposition of Wayne Adams as excerpted
 3. Exhibit C – Employee Evaluations of David Deckard
 4. Exhibit D – David Deckard's Contract with the LRSD
 5. Exhibit E – Records of Disability from Plaintiff's employee files
 6. Exhibit F – LRSD Drug Testing Policy (excerpted)
 7. Exhibit G – LRSD Employee Handbook (excerpted)
 8. Exhibit H – Interrogatories Response from Wayne Adams
 9. Exhibit I – Interrogatory Response from Morris Holmes

10. Exhibit J – Interrogatory Response from David Hartz
11. Exhibit K – Fact Sheet from National Multiple Sclerosis Society
12. Exhibit L – Grievance Request from David Deckard
13. Exhibit M - Email from Robert Jones to other Defendants dated
8/25/2011
14. Exhibit N - LRSD Organizational chart
15. Exhibit O – Doctor’s Note dated 4/27/2011 allowing Mr. Deckard to
return to work without restrictions
16. Exhibit P – Statements compiled by LRSD in support of their
termination of David Deckard, Excerpted
17. Exhibit Q – Return to Work Certification dated 6/15/2010 for David
Deckard
18. Exhibit R – Defendants’ EEOC Position Statement dated 12/8/2011
19. Exhibit S – Defendants statements made during the LRSD termination
hearing unofficial transcript provided with original source transferred to
DVD.
20. Exhibit T – Email from Robert Robinson dated June 11, 2011.
21. Exhibit U – LRSD Exhibit List/Deckard Hearing
22. Exhibit V – Mr. Deckard’s denial of unemployment benefits

Wherefore, as Defendants have failed to prove that there are no issues of material fact in the present case, their Motion for Summary Judgment must be denied as a matter of law.

Respectfully submitted,

/s/ Bridgette M. Frazier
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Certificate of Service

I, Bridgette M. Frazier hereby certify that I have electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will send notification of such filing to all CM/ECF participating counsel of record listed below:

Khayyam Eddings
Christopher Heller
Attorney for the Defendants
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on this the 28th day of August, 2013.

/s/ Bridgette M. Frazier